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DILLON & YUDELL LLP			JACKSON, JENISE E	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DARYL CARVIS CROMER,
JOSEPH WAYNE FREEMAN, STEVEN DALE GOODMAN,
ERIC RICHARD KERN and RANDALL SCOTT SPRINGFIELD

Application No. 09/847,085
Technology Center 2400

Mailed: June 24, 2009

Before PAMELA S. BENNETT, *Review Team Paralegal*
BENNETT, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on June 22, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

REPLY BRIEF

The review of the file finds that the Reply Brief filed April 6, 2009 includes an amendment and/or new evidence.

In accordance with 37 C.F.R. § 41.41(a)(2) (2008):

A reply brief shall not include any new or non-admitted amendment, or any new or non-admitted affidavit or other evidence

Because the Reply Brief filed April 6, 2009 was accompanied by an amendment, affidavit or other evidence, it will be treated as a request that prosecution be reopened before the examiner. See § 1208 of the *Manual of Patent Examining Procedure* (MPEP) (Eighth Edition, Rev. 6, September 2007) for details.

CONCLUSION

Accordingly, it is ORDERED that the application is returned to the Examiner:

- 1) to treat the Reply Brief filed April 6, 2009 as a request to reopen prosecution; and
- 2) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

PSB

Dillon & Yudell LLP
8911 North Capital of Texas Hwy.
Suite 2110
Austin, TX 78759